

A *aug. 29* 77

COLLECTION

Of such of the

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ORDERS

Heretofore used in

CHANCERY;

WITH

Such Alterations and Additions

thereunto, as the Right Honourable *Edward* Earl of *Clarendon*, Lord Chancellor of *England*,

By and with the advice and assistance of the Honourable Sir *Harbottle Grimston* Baronet,

Master of the ROLLS,

Have thought fit at present to Ordain and Publish.

FOR

Reforming of several Abuses in the said Court, preventing multiplicity of Suits, Motions, and unnecessary Charge to the Suiters, and for their more expeditions and certain course for Relief.

L O N D O N,

Printed for Robert Pawlett at the Sign of the Bible
in Chancery-Lane, near Fleet-street, 1676.



MODON

Recd. June, 30, 1899.



A
COLLECTION
Of such of the
ORDERS
Heretofore used in
CHANCERY.

Bills.

That no Counsellor
do put his hand to
any Bill, Answer,
or other Pleading,
unless it be drawn, or at least

perused by himself in the paper draught before it be ingrossed (which they shall do well for their own discharge, to sign also after perusal.) And Council are to take care that the same be not stuffed with repetition of Deeds, Writings, or Records, *in hæc verba*: but the effect and substance of so much of them only as is pertinent and material to be set down, and that in brief terms, without long and needless traverses of points not traversable, tautologies, multiplication of words, or other impertinencies occasioning needless prolixity, to the

the end the ancient Brevity and Succinctness in Bills, and other pleadings, may be restored and observed: Much less may any Council insert therein matter meerly criminous or scandalous, under the penalty of good costs to be laid on such Council, and paid to the party grieved, before such Council be heard in Court.

That all Bills be dated the same day they are brought into the Six Clerks Office, and that no Six-clerk presume to ante-date any Bill, and that no Under-clerk presume to keep any Bill by him, but with the first

opportunity deliver the same to the Six-clerk, or his allowed Deputy, in his absence to be accordingly filed.

No Bill, Answer, or other pleading shall be said to be of Record, or to be of any effect in Court, until the same be filed with such of the Six Clerks with whom it ought properly to remain.

Subpæna's.

That all Plaintiffs may have liberty to take forth *Subpæna's ad respondendum*, before the filing of their Bills, if they

they please, notwithstanding any late Order or usage to the contrary.

That every *Subpœna* to answer, revive, review, rejoyne to testifie, or to hear judgment, shall be served personally, or left at the Defendants dwelling house or place of residence, with one of that Family. And no Clerk of this Court shall issue any Attachment for not appearing, but upon Affidavit first made, positive and certain of the day and place of such service of the *Subpœna*, and the time of the return thereof, whereby it shall appear that

such service was made, if in London, or within twenty miles thereof, four days at the least, excluding the day of such service: And if above twenty miles, then to have been eight days before such Attachment entered; And that such Attachment shall not be discharged, but upon payment of usual costs, and so the succeeding costs to be double.

Pleas and Demurrers.

FOrasmuch as the Defendant being served with process to answer, may by advice

vice of Council upon sight of the Bill, only be enabled to demur thereunto, if there be cause, or may by like advice be enabled to put in any just plea which he hath in disability of the person of the Plaintiff, or to the jurisdiction of the Court: It is therefore ordered, That such Demurrer, or such plea in disability, or to the jurisdiction of the Court, under the hand of Council learned, shall be received and filed, although the Defendant do not deliver the same in person, or by Commission. And therefore if the Defendant shall pray a Commission,

tion, and thereby return a Demurrer only, or only such a plea, which shall be afterwards over-ruled, the Defendant shall pay five marks costs; and although it be allowed, the Defendant shall have no costs in respect of the Plaintiffs needless trouble occasioned by such Commission.

Every Demurrer shall express the several causes of Demurrer, and shall be determined in open Court. And such pleas also as are grounded upon the substance and body of the matter, or extend to the jurisdiction of the Court, shall
be

be determined in open Court. And for that purpose, the Defendant is to enter the same with the Register, within eight days after the filing thereof; or in default of such entry made, the same shall be disallowed of course, as put in for delay. And the Plaintiff may then take out process to enforce the Defendant to make a better answer, and pay forty shillings costs: and the same shall not afterwards be admitted to be set down or debated, unless upon motion it shall be ordered by the Court: And if any cause of Demurrer shall arise,

arise, and be insisted on at the debate of the Demurrer (more than is particularly alledged, yet the Defendant shall pay the ordinary costs of Over-ruling a Demurrer (which is hereby ordered to be five marks costs) if those causes which are particularly alledged be disallowed: although the Bill, in respect of that particular so newly alledged, shall be dismissed by the Court.

A Plea of Outlawry, if it be in any suit for that duty, touching which relief is sought by the Bill, is insufficient according to the Rule of Law, and shall

shall be disallowed of course as put in for delay : And the Plaintiff may notwithstanding such Plea , take out process to enforce the Defendant to make a better answer , and pay five Marks costs ; otherwise a plea of Outlawry is alwaies a good plea , so long as the Outlawry remaineth in force : And therefore the Defendant shall not be put to set it down with the Register : And after the said Outlawry reversed , the defendant upon a new *Subpœna* served on him , and payment unto him of twenty shillings costs , shall answer the same Bill , as if such

Out-

Outlawry had not been : But if the Plaintiff conceive such plea of Outlawry through mispleading , or otherwise to be insufficient, he may, upon notice given to the Clerk on the other side, set it down with the Register , to be debated with the rest of the Pleas and Demurrers in course : But if the Plaintiff shall not in such case enter it with the Register within eight days after the same shall be filed , the Defendant may take out process against the Plaintiff for his ordinary costs of five Marks , as if the same had been heard.

The

20. The Dependency of a former Suit for the same matter, is also a good plea ; and therefore the Defendant shall not be put to set it down with the Register ; But if the Plaintiff be not satisfied therewith, the same shall be referred to one of the Masters of the Court to certify the truth thereof ; and if it shall be determined against the Plaintiff, he shall pay five pounds costs to the Defendant ; But such reference shall be procured by the Plaintiff, and a report thereupon within one Month after the filing of such plea, otherwise
the

the Bill to stand dismissed of course with the ordinary costs of seven Nobles.

If after a Suit commenced at the Common Law, or any other inferiour Court, a Bill shall be exhibited in this Court to be relieved for the same matter, the dependancy of the former Suit shall be admitted as a good plea, and the Defendant not be put to motions for an Election or Dismission, and that plea shall be proceeded in, as in case of a Plea of a former Suit depending in this Court for the same matter.

After

After a Contempt duly prosecuted to an Attachment with proclamation return'd, no Commission to answer shall be made; nor no Plea or Demurrer admitted, but upon motion in Court, and Affidavit made of the parties inability to travel, or other good matter to satisfy the Court touching that delay.

Answers.

After a Commission once obtained to answer, no second Commission shall be

B granted

granted without special Order of Court upon good reason shewed to induce the same ; or the Plaintiffs own assent,

An Answer to a matter charged as a Defendants own fact, must regularly be without saying, *To his remembrance*, or *As he believeth*, if it be laid to be done within seven years before, unless the Court upon exception taken, shall find special cause to dispense with so positive an answer. And if the Defendant deny the fact, he must traverse or deny it (as the cause requires) directly, and not by way of negative pregnant.

pregnant. As if he be charged with a receipt of a sum of money, he must deny or traverse that he hath not received that sum, or any part thereof, or else set forth what part he hath received. And if a fact be laid to be done with divers circumstances, the Defendant must not deny or traverse it literally, as it is laid in the Bill, but must answer the point of substance positively and certainly.

When the Defendants have answered, the Plaintiffs and their Council are seriously to advise of the answers, and if

they find that upon the answer alone, without further proof, there be sufficient ground for a final Order or Decree, to proceed upon the answer without further lengthening of the Cause. Or if it be needful to prove one or a few particular points, to reply unto those points, and not to draw into pleading or proofs any more than those necessary points, thereby making long books, and putting both sides to unnecessary charges, the Defaulters herein to be punished by paying the charge of the Copies, or otherwise, as the cause shall require.

If

If a hearing be pray'd upon Bill and Answer, the answer must be admitted to be true in all points, and no other Evidence to be admitted, unless it be matter of Record to which the answer refers, and is proveable by the Record : The Plaintiff is therefore to be well advised, that the Court be not put to an unnecessary trouble, and himself to a certain charge, in bringing his cause to hearing which will not bear a Decree.

Exceptions.

When a Plaintiff except-
eth to a Defendants
answer, he shall set down his
Exceptions in Writing; and
if the answer be filed in Term
time, he shall the same Term,
or within eight days after that
Term, deliver the same Ex-
ceptions to the Council whose
hand is to the answer, or to the
Defendants Clerk in Court;
and if the Defendant do with-
in eight days after such delive-
ry, satisfy the Plaintiff of the
invalidity of those exceptions,
or

or amend the answer in the same time , or agree with the Plaintiff, or his Clerk, or Solicitor, to amend it by such time as they shall agree upon , and do amend it accordingly, and pay twenty shillings costs, the Plaintiff shall go on to Reply ; — but if the Defendant shall fail to do the same , or put in a second insufficient answer , the Plaintiff may get the answer or answers referred : and if the same shall be ruled insufficient, the Defendant shall pay forty shillings costs. But if an answer be filed in Vacation time , then the Plaintiff shall

have eight days in the beginning of the next Term, if he see cause to put in his Exceptions, and deliver them in Writing in like manner, as before is appointed: and the Defendant within eight days after such delivery to proceed as before is ordered.

If the Plaintiff shall procure a Reference of an insufficient answer within the time before limited, and the same be reported good, the Plaintiff shall pay the Defendant forty shillings costs.

If the first Answer be certified insufficient, and ruled so,
the

the Defendant shall pay forty shillings costs as aforesaid : if the Answer was put in in person : But if the same came in by Commission, the Defendant shall have fifty shillings costs, and no new Commission shall be awarded for taking a second answer, unless it be by Order, upon Affidavit made of the parties inability to travel, or other good matter, to satisfy the Court touching that delay, and first paying the costs of such insufficient answer, or by the Plaintiff, or his Clerks assent for expediting the cause. If the second answer
be

pay

be reported insufficient unto any the points formerly certified, the Defendant shall pay three pounds costs: and upon the third insufficient, four pounds costs: and upon a fourth Answer certified insufficient, he shall pay five pounds costs, and be examined upon Interrogatories to the points reported insufficient, and shall be committed, until he hath perfectly answered those Interrogatories, and paid the costs, in respect of the great vexation and delay which in such cases will happen to the Plaintiff.

No *Subpœna ad rejuugendum*, shall be of force, unless there be a Replication filed in the cause according to the course of the Court, before the issuing out of the said *Subpœna*, or at least before the return thereof: And the parties upon whom such *Subpœna* shall be served, finding no Replication filed before the return thereof, shall have the ordinary costs taxed according to the course of the Court.

Exami-

Examination of Witnesses.

{ **W**Hen the parties are at issue, and proceed to examine Witnesses, the Interrogatories are to be penned with care, that the same be pertinent, and only to the points necessary, and the Witnesses are to be sorted and examined on those Interrogatories only, that their Testimony doth extend unto, without the needless Interrogatories of matters unnecessary, immaterial, as well to avoid the charge of both parties, Plaintiff and Defendant,

dant, in superfluous Examinations, as that apt Interrogatories (which are the life of the cause) may be exhibited.

No Witness shall be examined in Court by the Examiner, without the privity of the adverse party, or of his Clerk who deals for the adverse party to whom the person to be examined shall be shewed, and a Note of his name and place of dwelling delivered in writing, by such as shall produce him; and the Examiner is to take care, and be well satisfied that such notice be given, and then shall add to the Title of the
Wit.

Witnesses Examination, the time of such notice given, and the name of that person to whom it is given, and by whom, that at the hearing of the cause the Suitor be not delayed upon pretence of want of notice.

When Witnesses are examined in Court upon a Schedule of Interrogatories, there shall be no new Interrogatories put in to examine the same Witnesses, nor shall any Witnesses be examined in Court after the day of Publication, though they were sworn before, so as a Copy of the Rule or Order whereby Publication passed, be

be delivered to the Examiner, that he may take notice thereof.

That all Copies of Bills, Answers, Depositions, or other Record, or thing whatsoever belonging to the Six Clerks to copy, shall contain fifteen lines at the least in every sheet of Paper, written fairly, and orderly, and unwaistfully: And that no such Copy shall be henceforth delivered out of the Office, before it be signed by such Six-Clerk to whom it belongeth with his own proper hand-writing, or by his Deputy in his absence. Nor any Copy not so signed, shall be made use
of

of in Court, or before any Master, which all Clyents are to take notice of, to the end they may be prepared with such Copies at the hearing of their causes.

And whereas many inconveniencies do frequently arise by undue copying Bills, Answers; and other Pleadings; before they be filed; so as they are either never filed, or very irregularly, to the prejudice of the Clyent, and trouble to the Court, by unnecessary motions: It is therefore ordered, That no Under-clerk, or his Man, or other for him, do from henceforth

forth presume to copy any Bill, or other Pleading whatsoever, before it be duly filed with the proper Six-Clerk, who ought to file the same.

For preventing of Perjury, and other Mischiefs often appearing to the Court, the Examiner is to examine the Deponent to the Interrogatories directed *seriatim*, and not to permit him to read over, or hear read any other Interrogatories, until that in hand be fully finished, much less is he to suffer the Deponent to have the Interrogatories, and pen his own Depositions, or depart

C after

after he hath heard an Interrogatory read over, until he hath perfected his Examinations thereunto. And if any Witness shall refuse so to conform himself, the Examiner is thereof to give notice to the Clerk of the other side, and to proceed no further in his Examination, without the consent of the said Clerk, or Order made in Court to order his so doing.

The Examiner shall not examine any Witnesses to invalidate the credit of any other Witness, but by special Order of the Court, which is sparingly to be granted, and upon
 Excep-

Exceptions first put into writing, and filed with the Examiner without fee, and notice thereof given to the adverse party, or his Clerk, together with a true Copy of the said Exceptions at the charge of the party so examining.

The Examiners (in whom the Court reposeth much confidence) are themselves in person to be diligent in Examination of Witnesses, and not intrust the same to mean and inferior Clerks; and are to take care to hold the Witness to the point interrogated, and not to run into extravagances, and

matters not pertinent to the Question, thereby wasting paper for their own profit, of which the Court will expect a strict accompt.

The Examiners are to take care that they employ under them in their Office, none but persons of known integrity and ability, who shall take an Oath, Not to deliver or make known directly, or indirectly, to the adverse party, or any other, save the Deponent who comes to be examined, any of the Interrogatories delivered to be examined upon any examination by him taken, or remain-
ing

ing in the Examiners Office, or Extract, Copy, or Breviat thereof, before publication be thereof passed, and Copies thereof taken. And if any such Deputy, Clerk, or person so employed, shall be found faulty in the Premises, he shall be expelled the Office, and the Examiner who so employed him, shall be also answerable to the Court for such misdemeanour, and to the party grieved, for his costs and damages sustained thereby: And such Solicitor, or other person, who shall be discovered to have had a hand therein, shall be

liable to such censure for the offence, as the Court shall find just to inflict upon him.

In examining of Witnesses the Examiner shall not use any idle Repetitions, or needless circumstances, nor set down any Answer to the Questions, to which the Examinant cannot depose, other than thus, *To such an Interrogatory this Examinant cannot depose.* And in case such impertinences be observed by the Court, the Examiner is to recompence the charge thereof to the party grieved, as the Court shall award.

That

That after Witnesses examined in Court, there shall be two Rules only given for Publication, (*viz.*) an Ordinary Rule, and then a day to shew cause why Publication should not pass, and upon the return of a Commission, one Rule only to be given, within which times aforesaid, if the other side do not shew unto the Court good cause to the contrary, Publication shall pass accordingly.

All Pleadings, Commissions, Certificates belonging to the Six-Clerks to receive, shall immediately, upon the bring-

ing in, or return thereof into this Court, be delivered to such Six-clerks own hands, as shall be Attorney in the cause ; or to the hands of his Deputy in his absence : And not be from henceforth in any wise kept back : nor any Depositions or Answers taken by Commission, or other Commission to be opened by any of their Under-clerks, before they be so delivered.

No Bills, Warrants, Pleadings, Commissions, Decrees, Dismissions, or other Records whatsoever, shall from henceforth be carried to be ingrossed, inrolled,

inrolled, copyed, or otherwise used by any of the Under-clerks to their Chambers, or elsewhere, out of the Six-clerks Office, or Lodgings there. And so soon as any Clerk shall have ingrossed, inrolled, copied, or used any such Warrant, Pleading, Commission, Decree, or other Record in the said Office, he shall bring the Original thereof presently back to such Six-clerk to whom the custody thereof doth belong, for the more safe keeping and disposing thereof according to the ancient usage.

Commissions

Commissions.

WHen a Commission is awarded to examine Witnesses, if by default of him that hath the carriage of the Commission, or by his Commissioners nothing is done, he shall bear all the charges that the other side was put unto about that Commission, either for Fees of Court, bringing or entertaining Commissioners, or Witnesses, or otherwise to be ascertained by the Oath of the party, or of him that disbursed the mony for him, and shall
renew

renew the Commission at his own charges.

When a Commission is awarded to examine Witnesses, and the one side produceth and examineth all his Witnesses, and the other side doth not, but pray a new Commission, if it be granted, he shall bear all the charges of the renewed Commission, both in Court, and in the Country, as well for the charge and entertainment of his own Commissioners, as of the Commissioners of the other side, and the other side shall be permitted to cross examine the Witnesses produced by him that

that reneweth the Commission ; but if he will examine any other Witnesses of his own, then he shall bear his own part of the charge ; the charges herein mentioned to be ascertained by the Oath of the party, or of him that disbursed the mony for him.

He at whose instance a Commission to examine Witnesses after a former Commission executed and returned, is once renewed, and he by whose default, or by default of his Commissioners, a former Commission was not executed, and thereupon it is renewed, shall at his peril examine

examine all his Witnesſes by that renew'd Commiſſion, or examine them in Court by the end of the Term, wherein that renewed Commiſſion is retornable without any more or further delay.

That no Commiſſion *ad examinandum teſtes* be executed in *London*, or within ten Miles thereof, without ſpecial order firſt obtained upon Affidavit made of the parties inability to travel, or other good matter; and that all Depoſitions taken by Commiſſion in *London*, or within ten Miles thereof, without ſpecial order as aforeſaid, ſhall ſtand ſuperſeded and ſuppreſſed

ipſo

ipso facto, and not allowed to be read as Evidence at the hearing of the case. And the parties who shall cause the same to be so executed, shall suffer such punishment for their contempt and irregularity as the Court shall think fit.

Depositions.

W Here either party, Plaintiff or Defendant, obtaineth an Order to use depositions of Witnesses taken in another cause, the adverse party may likewise use the same without motion, unless he be upon special reason shewed to the Court
by

by that party first desiring the same, inhibited by the same order so to do.

No motion shall be made in Court, or by petition for suppressing of Depositions as irregularly taken, until the Six-clerk not towards the cause have been first attended with the complaint of the party grieved, and shall certify the true state of the Fact to the Court, with their opinion : If the Attorneys or Clerks on either side, shall not for the ease of their Clients agree before them, for which purpose a rule for attendance of the Six-clerk in such a case, shall be entered

ted of course with the Register at the desire of the party complaining, which shall warrant their proceedings, and certify to the Court.

Causes to be set down for hearing.

THe Six-clerks who are the only Attorneys in this Court, ought to inform themselves continually of the state and proceedings of their Clients causes, whereby they may be able to defend their Clients, and to give account to the Court, as the Attorneys in all other

other Courts do , and not to leave the care and knowledge thereof upon their Under-clerks who attend not in Court , and the Clients and such as follow their causes , are to acquaint their Attorneys for that purpose.

Such as desire to have their causes set down for hearing, must repair to the Six-clerk that is Attorney in the cause, at least six days before the end of the Term , that the Six-clerk may inform himself of the state of the cause, of the long or short dependance thereof in Court, of the Antiquity of the publi-
D cation

cation, of the weight or value of the causes, and all other circumstances material to inform the Lord Chancellor, Lord Keeper, or Master of the Rolls, of the time of the setting down of causes, and the Six-clerk may not refuse to offer the same to be set down, if he be attended in such time as aforesaid, nor come unprepared to inform the Lord Chancellor, Lord Keeper, or the Master of the Rolls, of the nature and circumstance of the cause aforesaid. And neither he, nor any of his Under-clerks, nor any of the Registers are to take any Fee, Gratu-

tuity,

tuity, or Reward for the same:

No money, or other reward, shall in any wise be exacted, or taken directly or indirectly by any of the Six-clerks, or any of the Registers for, or in their behalf, for the preferring, and setting down of any cause for hearing, but only such Fees as are behind, and unpaid of their termly Fees and Duties (if any be) and if any case happen to be set down for hearing, wherein they shall not have been satisfied their due Fees and Duties, they may alledge the same in stay of hearing of the cause.

*Proceedings in bearing
Causes.*

WHere no Council appears for the Defendant at the hearing, and process appears to have been duly served, the answer of such Defendant shall be read, and if the Court upon such hearing shall find cause to decree for the Plaintiff, yet a day shall regularly be given to the Defendant to shew cause against the same, but before he be admitted thereunto, he shall pay down to the Plaintiff, or his Attorney in Court

Court, such costs as the Court upon that hearing shall assess, and the order is to be penned by the Register accordingly, (*viz.*) *It is decreed so and so, &c.* Unless the Defendant shall by such a day pay to the Plaintiff, or his Attorney in Court costs, and shew good cause to the contrary; and such Defendant upon his shewing cause, shall first produce a Certificate from the Plaintiffs Attorney in Court, that he hath paid the costs, or Affidavit of tender or refusal thereof.

Contempts.

ALL process of contempt shall be made out into the County where the party presented is resident, unless he shall be then in, or about *London*, in which case it may be made into the Country where the party then is. And if any person shall be taken upon process otherwise, or irregularly issued, the party so taken first appearing unto, and satisfying the process which did regularly issue against him, shall be discharged of his contempt, and have his full costs to be taxed of course.

course by the Six-clerks not towards the cause, for such undue or irregular prosecution from the time that the error first grew, without motion or other order.

Every Suitor who prosecuteth a contempt, shall do his best endeavour to procure each several process to be duly served, and executed upon the party prosecuted, and his willful default therein appearing to the Court, such person offending shall pay unto the party grieved good costs, and lose the benefit of the process returned without such endeavour.

All attachments in process shall be discharged upon the defendants payment, or tender to the plaintiffs Clerk, and refusal of the ordinary costs of the Court, and filing his Plea, Answer or Demurrer (as the case regularly requires) but upon motion in Court, or petition in that behalf.

And if after such conformity and payment of the costs (or tender and refusal thereof) any further prosecution shall be had of the said contempt, the party prosecuted shall be discharged with his costs.

If after appearance, and Inter-
roga-

terrogatories exhibited as afore-
 said, the party appearing shall
 depart before he be examined
 (without leave of the Court) he
 is upon motion and certificate
 from the Register of such his
 departing and not being exa-
 mined, and of the Interrogato-
 ries exhibited from the Exami-
 ner, to stand committed without
 further Day given unto him,
 and is not to be discharged from
 such his contempt until he hath
 been examined and cleared of
 his contempt; and if he shall
 upon his examinations, or by
 proofs be found in contempt,
 he shall clear such his contempt,
 and

and pay the Prosecutor his costs, before he be discharged of his Imprisonment. And although he be cleared of his said contempt, yet he shall have no costs, in respect of his disobedience in not being examined without the Prosecutors trouble and charges in moving the Court as aforesaid.

In case of prosecution of a contempt for breach of an Order of the Court, or otherwise grounded upon an Affidavit, the Interrogatories shall not be extended to any other matter than what is comprehended in the said Affidavit or Order. And, if
any

any other shall be exhibited, the party examined may for that reason Demur unto them, or refuse to answer them.

Where the party prosecuted upon a contempt, hath denied it, or the same doth not clearly appear by his examinations, the Prosecutor may take out a commission of Course to prove the contempt, and in such case the party prosecuted may name one Commissioner to be present at the execution of the Commission, and may henceforth (notwithstanding the former usage to the contrary) cross examine the Witnesses produced against

against him to prove the contempt , but is not to examine any Witnesses on his part, unless he shall satisfy the Court touching some matter of fact, necessary to be proved for clearing the truth. In which case the Court, if there be cause, will give leave to him to examine Witnesses to such particular points set down; and the other side may cross examine such Witnesses, But the Interrogatories on both sides are to be included in the Commission.

Where a contempt is prosecuted against one, who by reason of age, sickness, or other
cause

cause is not able to travel, or in case the same be against many persons who are Servants or Workmen, that live far off, the Court will upon Motion and Affidavit thereof, grant a Commission to examine them in the County, which Commission shall be sued out and executed at the charge of the person or persons desiring it, directed to such indifferent Commissioners as the Prosecutors of the contempt shall name (as in other cases) and one Commissioner only at the Nomination of the party prosecuted as aforesaid, Which Commission shall be executed at
such

such convenient time and place,
as the Six clerks not towards
the cause upon hearing the
Clerks upon both sides shall
set down.

Upon every Examination
and proof of a contempt re-
ferred to any of the Masters of
the Court to certify whether the
contempt be confessed or pro-
ved, or not ! The Master in his
Certificate thereof made to the
Court, shall likewise assess and
certify the costs to either party
as there shall be cause, without
other Order or Motion made
for that purpose.

Commitmen.

Commitment.

THe Court being tender of the liberty of mens Persons, and to avoid their Impri-sonment upon malicious Affidavits, which are often made by one mean and ignorant person, and which hath heretofore by the course of the Court drawn on a Commitment, doth order, that from henceforth, where Oath shall be made of misdemeanour in beating or abusing, the party upon suing the Proceſs or Orders of the Court, the party offending shall stand committed upon motion, and

no

no examination is in that case to be admitted.

And when Affidavit shall be made by two persons, of Scandalous or contemptuous words against the Court or the process thereof, the party offending shall likewise stand committed upon motion, without any further examination. And a single affidavit in such case shall be sufficient to ground an Attachment, Whereupon such person shall be brought in to be examined: and if the misdemeanor shall be confessed, or proved against him, he shall stand committed until he satisfy the Court touching

touching his said misdemeanour, and pay the Prosecutor his costs : And if he shall not be thereof found guilty, save by the Oath of the party who made such Affidavit, he shall be discharged, but without any costs, in respect of the Oath made against him as aforesaid.

Decrees and Dismissions.

THat all Decrees and Dismissions pronounced upon hearing the cause in this Court be drawn up, Signed, and Inrolled before the first day after the next *Michaelmas*, or
E *Easter*

Easter Term, after the same shall be so pronounced respectively, and not at any time after, without special leave of the Court.

When the party is committed, or brought in by a Serjeant at Arms for breach of a Decree, he is not to be enlarged until he hath performed the Decree in all things that are to be presently done, and given security by Recognizance with Sureties, as the Court shall order to perform the other parts of the Decree (if any be to be performed) at future days and times appointed by the Decree.

No

No Decree or Dismission shall be presented by the Register of this Court, or his Deputy, or any other, to the Lord Chancellor, Lord Keeper, or Master of the Rolls, to be Signed, before it be Signed by that Six-clerk to whom it belongeth, of his proper hand writing: or by his Deputy in his absence.

To the intent the Decrees and Dismissions of this Court may be easily found upon search, the Six Clerks are to keep a publick Book for the entring all decrees and dismissions which have been made

and signed by the Lord Chancellor since the Nine and twentieth day of *May* last, and which shall be made and so signed in this Court : And to that end the Register shall at the beginning of every Term, deliver unto one of the Six Clerks a List of all decrees and dismissions signed by the Lord Chancellor, the Term and Vacation before.

If a Bill be regularly and justly dismissed of course, or by order for want of prosecution, no motion shall be admitted for the retainer thereof, without a Certificate from the
defen-

defendants Attorney in Court,
that the costs of the dismissal
are pay'd, to the end unnecessa-
ry charge to the parties by se-
veral motions for one and the
same matter , may henceforth
be avoided.

Masters.

That the Masters do not
pass any Exemplificati-
ons of depositions taken in
Chancery upon a bare sight of
the Copies only, without first
calling the Officer or Officers,
who have the custody of the
Records, or Originals of such
E 3 Copies,

Copies, or some sworn Clerk of his, or their Office, who are to produce the same before them, to warrant their signing thereof.

The Masters are not upon the importunity of Council, (how eminent soever) or their Clients, to return special Certificates to the Court, unless they are required by the Court so to do, or that their own judgment in respect of difficulty leadeth them unto it; such kind of Certificates for the most part occasioning a needless trouble, rather than ease to the Court, and certain expence to the Suitor.

Their.

Their Certificates and Reports are to be drawn as succinctly as may be (preserving the matter clearly for the judgment of the Court) and without recital of the several points of the Orders of reference (which do sufficiently appear by the Orders themselves) or the several debates of Council before them: unless that in case where they are doubtful, they shortly represent to the Court the reasons which induce them so to be.

The Masters of the Court are to take notice, That when the Court requires to be satisfied

from them, touching any matter alledged to be confessed, or set forth in the defendants answer, It is intended, that without further Order, they should take consideration of the whole answer or answers of the defendants, and certifie not only whether the matter be so confessed or set forth, but also any other matter avoiding that confession, or balancing the same, that the Court may receive a clear and true Information.

The Masters in taking Affidavits, and administering of Oaths, in cases duly presented unto them, are to be circum-spect

spect and wary , that the same
 be reverently and knowingly
 given and taken, and are there-
 fore to administer the same
 themselves to the party , and
 where they discern him rash
 or ignorant, to give him some
 conscionable admonition of his
 duty, and be sure he understand
 the matter contained in his Af-
 fidavit, and read the same over,
 or heard it read in his presence,
 and subscribe his name or mark
 thereunto , before the same be
 certified by the Master, who is
 not to receive or certify any
Affidavit , unless the same be
 fairly and legibly written,
 without

without blotting, or Interlineation of any word of substance.

In all matters referred to the Masters of the Court, their Certificate (not being to ground a Decree) if it be positive, is to stand, and Process may be taken out to enforce performance thereof, without further motion, unless the adverse party, upon notice given (to his Attorney or Clerk in Court,) that such report is filed against him, shall within eight days after such notice (if it be given in Term, or while the general Seals for Motions are held, or within four days of the next Term, if

it

it be given after) obtain some Order in Court to controul or suspend the same ; and in case of an insufficient Answer certified by the Masters, the Plaintiff may immediately take out Process against the defendant for his costs, and to make a better Answer, as hath formerly been used.

*No. a rule
is given to
make a better
Answer*

Where after Certificate or Report made by the Masters of the Court, either Party shall appeal from the same, to the judgment of the Court, he shall first file his Exceptions thereunto briefly, with the Register, and deposite with him forty shillings

shillings to be paid to the other
 party for his costs, if he prevail
 not in such Appeal : And then
 the Register shall enter such
 causes of Appeal in a Paper, in
 order as they are brought unto
 him to be determin'd by the
 Court, in course upon days of
 Motions, and notice thereof to
 be given by the party appeal-
 ing, to the Clerk of the other
 side. And also the Registers
 Paper to be set up in the Office
 two days before ; and if the
 Court shall not alter the Masters
 report, then the forty shillings
 deposited to be paid to the par-
 ty defending the same, with such
 increase

increase as the Court shall find cause to impose , otherwise to be restored to the party appealing, and both without charge.

The Masters Extraordinary shall not within twenty miles of *London*, take any Affidavits, or acknowledgment of Deeds, or Recognizances , or do any other act incident to the place of Master of the Chancery. And to the end it may appear, whether any Master Extraordinary shall notwithstanding presume so to do; every such Master shall express the name of the Town and County where he shall take any *Affidavit*, or the
acknow-

acknowledgment of any Deed or Recognizance, otherwise the same shall not be held authentic, nor admitted to be Filed or Inrolled.

Cursitor.

W Hereas there is an irregular practice lately introduced, of making forth Original Writs of *Clausum fregit* in Trespass, without any other cause of action therein expressed of Returns past, when in truth the proper cause of action, is either Debt, Case, Ejectment, or some other cause of action; and

and by process thereupon, the defendant is not only usually arrested, but frequently proceeded against to the Outlawry, to the great damage of the Subject, and the loss and diminution not only of the proper Original Writs issuing out of this Court, but also of his Majesties revenue for the casual Fines thereupon due and payable. It is therefore Ordered,

That no Curllitor of this Court, from, and after the first day of *Trinity* Term next ensuing, make, or cause to be made any Writs of *Clausum fregit*, or *Clausum & Domum fregit* within
the

the City of *London*, without special Warrant from the Lord Chancellour, or Lord Keeper of the Great Seal of *England*, or Master of the Rolls for the time being, unless it be made appear by Affidavit, or some other probable evidence that the same is the true and proper cause of action.

That no Curfitor of any other County do make, or permit to be made within his respective Division any of the said *VVrits* of *Clausum fregit*, or *Clausum & Domum fregit*, of any other return, than of the last return of every respective Term,

Term, unless it be to warrant Arrests, and *Testatum Capias* only:

That no Curfitor shall from and after the end of *Michaelmas* Term next ensuing, make, or permit to be made within his respective Office and Division, any Original Writs whatsoever of any return past, unless he shall receive the Instructions for making thereof within the Term wherein the said Writs are to be returnable, Or at the farthest, on, or before the first Effoign day of the next succeeding Term, without special Warrant from the Lord Chancellor, or Lord Keeper of the

Great Seal of *England*, or Master of the Rolls for the time being, Or good cause to be allowed of by the Principal, and Assistants of the Company of the Cursitors for the time being, or the Major part of them, at their publick Meetings according as heretofore hath been used.

The Cursitors are to take care that they imploy under them in their Office, none but Persons of known integrity and ability, and if any Clerks, or Persons so imployed, shall be found faulty in the premisses, he shall be expelled the Office;

and

and the Curfitor who fo employed him, fhall be answerable to the Court for fuch Misdemeanours; and fuch person, or persons, who fhall be difcovered to do, or proceed otherwife than is before mentioned, fhall be liable to fuch censure for his offence, as the Court fhall find juft to inflict upon him.

Petitions.

NO Injunction for ftay of Suit at Law fhall be granted, revived, diffolved, or ftaid upon Petition. Nor any Injunction of any other nature,

shall pass by order upon Petition, without notice, and a Copy of the Petition first given to the other side; and the Petition filed with the Register, and the Order entered.

No Sequestration, Dismission, Retainers upon Dismissions, or final Orders are to be granted upon Petition.

No former Order made in Court is to be altered, or explained upon a Petition; or commitment of any person taken upon Process of contempt to be discharged, but upon hearing the adverse party, his Attorney or Clerk toward the cause.

Paupers.

Paupers.

After an admittance *In forma pauperis*, no Fee, profit, or reward shall be taken of such party admitted by any Counsellor or Attorney, for the dispatch of the *Paupers* business, during the time it shall depend in Court, and he continued *in forma pauperis*; nor any Contract, nor Agreement be made for any recompence or reward afterwards. And if any person offending herein shall be discovered to the Court, he shall undergo the displeasure of the Court, and such further punish-

ment as the Court shall think fit to inflict upon him, and the party admitted, who shall give any such fees or reward, or make any such Contract or Agreement, shall be from thenceforth dispaupered, and not be afterwards admitted again in that Suit to prosecute *in forma pauperis*.

If it shall be made appear to the Court, That any person prosecuting *in forma pauperis*, hath sold or contracted for the benefit of the Suit, or any part thereof, whiles the same depends, such cause shall be from thenceforth totally dismissed the Court, and never again retained.

Such

Such Council or Attorney as shall be assigned by the Court, to assist the person admitted *in forma pauperis*, either to prosecute or defend, may not refuse so to do, unless they satisfy the Lord Chancellor, or Lord Keeper of *England*, or Master of the Rolls, who granted the admittance, with some good reason of their forbearance.

That Counsellour who shall move any thing to the Court, on the behalf of a person admitted *in forma pauperis*, ought to have the Order of admittance with him, and first to move the

same before any other motion.
 And if the Register shall find
 that such person was not admitted *in forma pauperis*, he shall not
 draw up any Order upon the
 second motion, made by any
 such Council, but he shall lose
 the fruit of such second motion
 in respect of his abuse to the
 Court.

No process of Contempt
 shall be made forth, and sent to
 the Great Seal, at the Suit of
 any person prosecuting as
 Plaintiff *in forma pauperis*, until
 it be signed by the Six Clerk
 who deals for him, and the Six
 Clerks are to take care, that such
 process

process be not taken out need-
lessly, or for vexation, but upon
just and good grounds, as they
will answer it to the Court, if
the contrary shall appear.

And lastly , it is Ordered.
that all Masters of the Court of
Chancery, Counsellors, and all
Officers, Ministers, Clerks, and
Solicitors in the said Court, do
observe these Orders, which are
to continue, until upon further
consideration and experience,
any Alterations shall be thought
fit to be made therein.

Clarendon.

HAR. GRIMSTON.

The

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A Catalogue of Books Printed for,
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near *Fleet-street*.

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The voice of Peace to an unquiet Consci-
ence.*

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Divine Breathings, or a Pious Soul thirsting after Christ, in an hundred excellent Meditations.

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A Treatise of the English Particles; shewing much of the variety of their significations and uses in English; and how to render them into Latin, according to the Propriety and Elegancy of that Language; with a Praxis upon the same; by William Walker, B.D. School-Master of Grantham.

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